

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 21.12.2004

Coram

The Honourable Mr. Justice V.KANAGARAJ

Crl.OP.No.24092 of 2004
& Crl.M.P.No.11312 of 2004

R.Rajendra Narasimhan ... Petitioner

-Vs-

- 1.The Superintendent of Police,
CBCID, Madurai.
- 2.The Inspector of Police,
E-1, Thideer Nagar Police Station,
Madurai.
- 3.The Central Bureau of Investigation,
Shastri Bhavan, Chennai-6. ... Respondents

Petition filed under section 482 Cr.P.C. for the relief as stated therein.

For Petitioner : Mr.G.Rajendran

For respondent : Mr.A.N.Thambidurai,
Govt.Advocate (Crl.Side)

ORDER

The petitioner has filed the above Criminal Original Petition praying to direct the first respondent to transfer the investigation of Crime No.536 of 2000 on the file of the first respondent to the third respondent with a direction to investigate the above case afresh.

2. The case of the petitioner is that his sister got married with one Andithevar, who was the Ex.MLA and also the General Secretary of All India Forward Block; that out of the wedlock one male child by name Sivaraman and one female child Punniyavathi were born to them; that his sister Indurani died in the year 1975 in a suspicious manner; that the said Sivaraman attended the ceremony of his maternal grandfather on 12.8.1998; that thereafter nothing was heard about Sivaraman; that when the mother of the petitioner

enquired about Sivaraman, the said Andithevar evasively replied that Sivaraman is working at Singapore; that the reply given by the said Andithevar created a suspicion; that the said Andithevar vacated the room at Madurai Modern Lodge, where Sivaraman had been staying and removed the belongings of Sivaraman and therefore, the petitioner has lodged a police complaint before the second respondent on 3.4.2000 and on 4.4.2000 and the same was registered in Crime No.536 of 2000; that since no proper action was taken, the petitioner had filed HCP No.55 of 2000 and the same was dismissed with a direction to the respondents to dispose of the complaint of the petitioner within a fortnight; that thereafter, the second respondent forwarded the connected file to the learned Judicial Magistrate No.IV, Madurai to close the complaint and the FIR in Crime No.536 of 2000; that the petitioner has filed Crl.O.P.No.15610 of 2000 and the same was disposed of on 17.11.2000 with a direction to exhaust the remedy available before the Judicial Magistrate in RC No.56 of 2000; that thereafter, the Judicial Magistrate has directed the second respondent to investigate further and file a report; that the said Andithevar is one of the influential person and he might have disturbed the investigation and therefore, the petitioner has filed Crl.O.P.No.19282 of 2001; that this Court by an order dated 14.12.2000 transferred the investigation on the file of the second respondent to the Superintendent of Police, CB CID, Madurai, the first respondent herein with a further direction to complete the investigation expeditiously and submit a report within eight weeks; that since the investigation is not completed and the report is not filed, the petitioner has come forward with the above Criminal Original petition for the relief extracted supra.

3. Learned Government Advocate would submit that originally the case was registered on the complaint dated 4.4.2000 under Sections 120-B, 364, 365 read with 120-B IPC for the alleged offence of 'man missing' in Crime No.536 of 2000, Thideer Nagar Police Station, Madurai; that in HCP No.588 of 2000 filed by the petitioner, this Court by an order dated 31.7.2000, had directed the second respondent to dispose of the complaint within a period of fortnight; that the second respondent in spite of examining 26 persons, he could not get any clue; that thereafter, in Crl.O.P.No.15610 of 2000, which was filed by the petitioner, this Court by an order dated 17.11.2000 directed the petitioner to exhaust his remedy before the concerned Judicial Magistrate's Court; that thereafter in Crl.O.P.No.19282 of 2001, this Court by order dated 4.12.2001 directed the Superintendent of Police, CBCID, Madurai to investigate the complaint with a special team of Officers and complete the same and file a report within a period of eight weeks and the case was transferred to CBCID, Madurai on 22.12.2001; that the Inspector of Police, Sivaganga, CBCID would submit that witnesses who were examined earlier by the local police were re-examined and their statements were also recorded; that the suspected persons were thoroughly interrogated and during the course of investigation, it

was also revealed that Andithevar, who is the accused in this case and the father of the Sivaraman was an Ex-MLA and the President of All India Forward Block Party got married to one Indurani, the sister of the petitioner and was blessed with a son and daughter; that the son is the missing person Sivaraman.

4.The learned Government Advocate would further submit that prior to that, Andithever as a law student at Madras Law college, he fell in love with one Phelomina, a student of Nursing Course at Kilpauk Medical College, married her in a church in the name of Pal Pandian and also blessed with two sons and daughter through Phelomina; that on 20.10.2003 interim final report has been filed for the offences under Sections 120-B, 365, 364 r/w.120-B IPC and on 10.2.2004, the case number was given as PRC No.15 of 2004.; that in the interim final report, it is mentioned that Al Andi Thevar is a leading personality and economically sound person and he has been MLA for three terms and hence, none comes forward to depose against him and revived efforts are being taken to account for the disappearance of the missing person Sivaraman or the disposal of his mortal remains.

5. It is pathetic to note that after a lapse of six years in a case of missing of the boy, the respondents are not able to either locate the whereabouts of the boy or to come forward to say anything that has happened to the boy and it is further strange to note that the preliminary Charge Sheet has been filed on 20.10.2003 under Sections 120-B, 365, 364 r/w.120-B IPC and the case has been numbered in PRC No.15 of 2004 on the file of the Court of the Judicial Magistrate No.V, Madurai. Further it comes to be known that Al being an Ex MLA and economically sound, no one comes forward to speak to the truth and hence, the Investigative Team finds it difficult to probe into the missing of the boy and in these circumstances, now the petitioner has come forward to seek a direction to transfer the investigation of the above case to the third respondent herein.

6. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel for the petitioner and the learned Government Advocate (Criminal side) for respondents 1 and 2, this Court is of the view that there shall be no more wasting of time in the name of doing the investigation by the first two respondents and it is only desirable to hand over the investigation with the hands of the third respondent/ CBI to investigate the matter afresh from the beginning in order to unearth the truth and hence the following order:

In result,

(i) the Criminal Original petition stands allowed.

(ii) the investigation of the case registered in Crime No.536 of 2000, which is now pending in PRC No.15 of 2004 on

the file of the Court of Judicial Magistrate No.V, Madurai is hereby ordered to be transferred to the Directorate of the CBI., New Delhi.

(iii)The Directorate of the CBI, New Delhi shall take up the investigation and do all necessary things that are required in the circumstance of the case and to file a final report at the earliest particularly in view of the fact that it is a long pending matter. Till such time the PRC No.15/2004 pending on the file of the Judicial Magistrate No.V, Madurai shall be kept in abeyance.

(iv)CrI.M.P.No.11312 of 2004 is closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Superintendent of Police, CBCID, Madurai.

2.The Inspector of Police,
E-1, Thideer Nagar Police Station, Madurai.

3.The Director,
Central Bureau of Investigation, New Delhi.

4.The Judicial Magistrate No.V, Madurai.

5.The Public Prosecutor, High Court, Madras.

6.The Director,
Central Bureau of Investigation,
Sastri Bhavan, Chennai -6

7. The Judicial Magistrte No.IV, Madurai.

One cc to M/s S.Kanmani Annamalai, Advocate SR.No.56531.

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